

FORD & HUFF LC
ATTORNEYS AT LAW

September 8, 2022

Hon. Barbara Moses
United States District Court
Southern District of New York
500 Pearl Street, Room 740
New York, NY 10007

Re: Failure to Provide Settlement Demand
Stephen Gannon v. Hoon On Co., Inc., et al.
Case # 22-cv-01657

Dear Judge Moses,

This law firm represents Plaintiff Stephen Gannon ("Plaintiff") in this action. Plaintiff today sent a full settlement agreement to Defendants, including a proposed monetary amount for costs and fees.

Counsel apologizes to the Court and to opposing counsel for every inconvenience, including the present filings.

On the evening of June 16, 2022 while at a full stop at a red light at the bottom of an interstate freeway off-ramp in rural Utah, undersigned counsel was rear-ended by a distracted driver at the wheel of a large Ford F-150 truck traveling approximately 40 miles per hour, totaling his vehicle and causing a severe concussion.

Counsel is a U.S. Army veteran, served as an Arabic linguist, and was medically discharged after suffering a service-related severe head injury. After that injury, counsel suffered significant short-term memory loss. This recent accident caused a relapse of the previous short-term memory loss, but to a much lesser degree.

Adam D. Ford
228 Park Avenue South
New York, New York 10003

adam.ford@fordhufflaw.com
(212) 287-5913
www.fordhufflaw.com

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Dealing with memory issues is particularly challenging as one does not know what one is not remembering. Although significant progress towards full recovery has been made, counsel is aware that some things have been missed over the last few months.

As counsel's recovery progresses, counsel has hired additional staff to assist in making sure no deadlines are missed. Counsel's memory issues are improving and are not today the significant impediment they had been over the last few months. Counsel apologizes to this Court and opposing counsel for not providing a settlement demand earlier as he would have liked to have done and has now done.

An important part of the problem with settling this case is that Defendants counsel is treating this case as if it were a monetary shake-down case, filed for the purpose of extracting monetary fees. They continually to want to know how much settlement will cost. While counsel does hope to be fairly compensated for his time on the matter, this case isn't about a monetary demand or damage calculation. This is a case brought primarily under the Americans with Disabilities Act and Plaintiff wants the triangle wedge of concrete posing as a ramp at the entrance to the restaurant and store fixed so that it will be a ramp compliant with the ADA so that Plaintiff may enter absent discrimination. That is the heart of the matter, not the fees component.

This should not be new information to Defendants, as in every discussion and all pleadings and filings this point has been made over and over again. Unless Defendants agree to actually fix the noncompliant entrance, no amount of money will settle the case. In this regard, Defendants plea for a settlement demand, as reflected in the email correspondence, is a canard. They know what Plaintiff wants and money isn't the issue. If they agreed to fix the entrance, counsel has always been able to find a compromise position on the costs and fees and get the case settled. Plaintiff will never settle the case absent an agreement to remediate the noncompliant entrance. Defendants continue to refuse to agree to fix the entrance. Unless their position changes, settlement will be impossible. At any time, Defendants could inform Plaintiff that they will agree to remediate the entrance and the case would quickly settle.

Plaintiff and his counsel thank the court for its attention in this matter and, again, apologize for wasting its time with this matter.

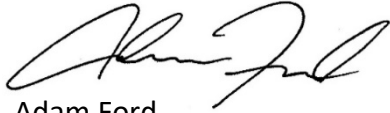
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Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Adam Ford", written in a cursive style.

Adam Ford

Ford & Huff LC

cc: All Counsel of Record (via ECF)